

No. 92-1168

Supreme Court, U.S.  
FILED

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In The  
Supreme Court of the United States  
October Term, 1992

TERESA HARRIS,

*Petitioner,*

v.

FORKLIFT SYSTEMS, INC.

*Respondent.*

Petition For Writ Of Certiorari  
To The United States Court Of Appeals  
For The Sixth Circuit

BRIEF IN OPPOSITION

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## STATEMENT OF THE CASE

Teresa Harris, a four-time married white female, filed this suit alleging basically that her employer's President, Charles Hardy maintained a hostile working environment for females resulting in her constructive discharge. There was also an allegation that she was employed on different terms and conditions from other male managers.

The period of Harris' employment was from August 22, 1985 until October 1, 1987, at which time she collected her paycheck and left her place of employment without proper notice, and did not return. On Friday, October 2, 1987, Harris met with her attorney, and on Monday, October 5, 1987 filed her EEOC complaint.

During the time of her employment, Harris voluntarily, on a frequent two to three times a week basis, participated in after hour "bull sessions" where she was the only female participant. During these sessions beer was drunk, dirty jokes were swapped, and off-color language employed.

These activities never yielded, on the part of Harris, an objection in any shape, manner or form.

The facts establish that she conducted herself as "one of the boys", enjoyed the camaraderie, and at times utilized language, herself, that sank below the generally accepted norm.

Harris never complained to Hardy of the facts that she sought to utilize as the basis of the lawsuit, until August, 1987. In August, 1987, a business relationship between Harris' husband and Hardy began to deteriorate.

The facts evidence that Harris' compensation increased during her period of employment; that a social relationship existed between Harris and Mr. and Mrs. Hardy; and that prior to her departure from her employment she was planning to open a business in competition with her employer.

The proof established that shortly before her departure, Harris secretly taped a conversation between herself and Hardy. Harris did not introduce the transcript of the tape into evidence, and when Hardy utilized the transcript for purposes of cross-examination of Harris, Harris' counsel unsuccessfully sought the exclusion of the contents of the tape. The tape, utilized in the cross-examination of Harris, established a multitude of facts that justified the recommendation that her case be dismissed.

In the ruling below, the District Court in adopting the Magistrate's Report and Recommendation found that assignment of credibility was difficult. It found that Hardy's business relationship with Harris' husband played a bigger role in Harris' dissatisfaction with her job than she admitted.

The Court concluded that Harris was not able to prove that Hardy's conduct was so severe as to create a hostile work environment for Harris, nor that she was treated disparately as to other terms or conditions of employment.

The Court also concluded that it did not believe that Harris was so offended that she suffered injury, despite her testimony to the contrary.

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## ARGUMENT IN OPPOSITION

Each hostile environment action must be decided individually on a consideration of all the facts in the case. *Meritor Savings Bank vs. Vinsion*, 477 U.S. 57, 106 S.Ct. 2399, 91 L.Ed.2d 49 (1986).

The facts in this case clearly established that Harris voluntarily placed herself in situations that she complained of; that she waited two years to complain and then only at the time when the business relationship between her husband and Hardy was being terminated; and that during her employment her compensation increased and that she was happy with her compensation.

The lower court properly concluded that Harris failed to establish a hostile work environment; failed to establish that she was treated disparately; and failed to establish that she suffered any type of injury.

Harris' case failed with, or without consideration of her psychological well-being.

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## CONCLUSION

For the foregoing reasons and based on the uncontroverted facts this Petition for Writ of Certiorari should be denied.

Respectfully submitted,

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